

**Minutes of the  
Defense Environmental Response Task Force Meeting  
July 21-23, 1998  
Skokie, Illinois**

**Tuesday, July 21, 1998**

The Defense Environmental Response Task Force (DERTF) Executive Secretary, Mr. Shah Choudhury, Office of the Assistant Deputy Under Secretary of Defense (Environmental Cleanup), opened the meeting with administrative remarks and explained how the meeting would be conducted under the provisions of the Federal Advisory Committee Act. A quorum of seven voting members and alternates was present at the meeting.

Mr. Robert Taylor, Deputy General Counsel for Environment and Installations for the Department of Defense (DoD), chaired the meeting as a designated alternate to Ms. Sherri Goodman, the DERTF Chair and Deputy Under Secretary of Defense (Environmental Security). Mr. Taylor opened the meeting by welcoming the DERTF members and other attendees and reviewed the purposes of the meeting. Other DERTF members also provided brief opening remarks.

**Business Items**

The DERTF members adopted the minutes from the January 27-29, 1998, DERTF meeting with minor changes. Mr. Timothy Fields, the DERTF member representing the Environmental Protection Agency (EPA), indicated that some comments EPA had made on the draft minutes were not reflected on the review copy prepared for the meeting. After the appropriate change was noted, the members unanimously adopted the minutes.

The DERTF members then discussed the status of action items. Mr. Choudhury stated that fourteen action items would be closed as a result of activities at this meeting.

Mr. Choudhury stated that, based on information received from EPA, EPA is still researching the incidence of institutional controls (ICs) in records of decision (RODs) in response to a tasking EPA accepted at the January 1998 meeting of the DERTF. EPA is also still working toward completion of taskings to analyze findings of suitability to transfer (FOSTs) and findings of suitability to lease (FOSLs), and to develop a fact sheet on their guidance for identifying uncontaminated properties.

In relation to the open action item regarding the National Association of Attorneys General (NAAG) and the National Governors' Association (NGA) conducting a survey of state laws on institutional controls (ICs) for environmental cleanup, Mr. Choudhury noted that staff from the Office of the Attorney General, State of Texas had provided a copy of a 1997 study that had been conducted by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

Mr. Goodhope, from the Office of the Attorney General, State of Texas, speaking on behalf of the NAAG representative, asked for clarification on the open action item calling for NAAG to provide the DERTF a paper on state experience with natural resource damages. Discussion among members of the Task Force clarified that there were four actions related to natural resource damages: definition based on statute of who natural resource trustees are, which NAAG provided in March 1998; identification of state natural resource trustees, which EPA agreed to provide to NAAG; development of a paper addressing DoD's trustee responsibility, which was provided in the meeting materials; and development by NAAG of a summary of states' legal actions in the area of natural resource damages, which remained an open action item. Mr. Goodhope stated that he felt natural resource damage issues were an important topic that deserved additional discussion at some point.

Mr. Choudhury then stated that the staff had completed two documents analyzing the recommendations that had been made by the DERTF since its inception. Mr. Fields stated that he thought the documents were useful, but he wanted to remove the reference to state voluntary cleanup programs from the conclusion to the Recommendations Implementation Study because there are questions as to whether state-administered voluntary cleanup programs are applicable to Federal facilities. Mr. Don Gray, representing the Environmental and Energy Study Institute, a public-interest environmental organization, indicated that he would like to provide comments and have further discussion on the documents and then include them in this year's Annual Report to Congress. The DERTF agreed to accept the documents as a staff product to serve as the basis for any further discussion by the Task Force.

### **Presentation on Progress of BRAC Environmental Cleanup**

Mr. Bob Turkeltaub, Office of the Assistant Deputy Under Secretary of Defense (Environmental Cleanup), presented the status and costs of environmental cleanup activities at Base Realignment and Closure (BRAC) installations. He also presented the status of the measures of merit (MOMs). He concluded that the Components are on track to meet their goals and that DoD will be increasing its focus on site closeout. In response to questions about the status of fast-track cleanup at National Priority List (NPL) sites, Mr. Turkeltaub stated that cleanup at NPL sites was behind cleanup at non-NPL sites. Mr. Goodhope stated his opinion that DoD is moving from permanent remedies and cleanup to using ICs. He raised a question about long-term monitoring (LTM) and its relationship to ICs. Mr. Taylor replied that LTM is the period after response complete where monitoring or reviews are done to ensure cleanup objectives continue to be met and that the remedy is fully protective. He stated that the use of ICs would be site specific to ensure that the remedy remains fully protective.

Ms. Lisa Tychsen, EPA Federal Facilities Restoration and Reuse Office, then presented a BRAC fast track cleanup status and progress assessment based on EPA's BRAC Indicators of Progress (BIPs). The BIPs, like DoD's MOMs, are indicators of cleanup actions and progress at NPL and non-NPL sites, such as FOSTs/FOSLs and responses in place. Following this presentation, the Task Force members discussed the relationship between FOSTs/FOSLs and RODs. Mr. Paul Reimer of Reimer Associates, the DERTF member representing the Urban Land Institute, asked

whether the completion data presented by Ms. Tychsen and Mr. Turkeltaub took into account delays that might be encountered after development of the FOST. The presenters responded that no significant delays were included in the data, and that the number of FOSTs and FOSLs shown in the data indicated that BRAC property was being moved into reuse in a timely fashion. Mr. Goodhope asked if the goals described by Mr. Turkeltaub and Ms. Tychsen included any ICs, and Ms. Tychsen responded that the goals (as related to remedy in place) can include remedies where ICs are involved. Mr. Gray raised the issue of DoD's responsibility after site closeout: he felt that funding and commitment by DoD was adequate for the next 5 to 10 years, but he expressed concern about funding, and who will monitor ICs 20 or 30 years in the future. Mr. Goodhope emphasized that it is important to quantify the funding requirements imposed by ICs, including future requirements and those that may impact states and communities, to ensure that adequate resources are being included in the budget.

Mr. Brian Polly, the DERTF member representing the General Services Administration (GSA), encouraged DoD and EPA to continue to work on clarifying data and terminology to measure progress. He also encouraged DoD to maximize opportunities to secure sufficient funds for BRAC cleanup, to consider new technology, to maintain environmental restoration contract capability, and to maintain funding for BRAC Cleanup Teams (BCTs).

### **Presentation on Glenview Redevelopment Plan**

Mr. Taylor stated that the afternoon presentations on July 21 would address Glenview Naval Air Station (NAS). He turned the floor over to Ms. Nancy Firfer, President of the Village of Glenview. Ms. Firfer welcomed the DERTF members to the Glenview area and turned the floor over to Mr. Donald Owen, Economic Redevelopment Coordinator for the Glenview Redevelopment Project, the local redevelopment authority (LRA) for the base.

Mr. Owen discussed the involvement of stakeholders in the cleanup process, emphasizing the importance of involving all stakeholders in the process of conducting cleanup and making property suitable for transfer. He discussed the use of grants to jump-start the BRAC process and keep funding consistent, and the need to reduce any perceived stigma associated with ICs. Mr. Owen suggested that ICs be factored into initial environmental cost estimates in the future.

### **Presentation on Glenview Environmental Activities**

Mr. Ralph Watkins, BRAC Environmental Coordinator (BEC) for Glenview NAS, gave a brief history of the installation and presented an overview of cleanup activities at the base. He stated that the BCT had been formed in October 1993 and was making good progress in conducting cleanup. He noted that the BCT has made a continuous effort to transfer property in accordance with community priorities, and has worked in close communication with the LRA to do so.

Mr. Kenneth Klewin, the BCT member for EPA Region V, described the process of cleanup at Glenview NAS and the methodology for transfer of property. He indicated that 99% of the base had been or would be cleaned up to an unrestricted use level, while 1% of the base could possibly have ICs put in place. He said that the property is suitable for multiple types of reuse, including

commercial/industrial and recreational. He concluded by stating that the Glenview BCT had managed to prepare much of the former base property for transfer relatively quickly by grouping cleaned parcels with screened parcels and developing FOSTs for them right away.

Ms. Charlene Falco, the BCT member from Illinois EPA, discussed partnering and the pros, cons, and costs associated with facilitated partnering. She described the evolution of partnering at Glenview, stating that the BCT had moved to formal facilitated partnering. She provided examples where cooperation and the willingness of all three BCT members to invest the time in the partnering process had resulted in benefits for all parties and substantial cost savings.

Mr. Goodhope asked about funding by the Federal government and who gets priority in receiving funds. Mr. Watkins answered that sites with established reuse plans and anticipated transfer dates were given highest priority with regard to funding. Mr. Goodhope asked about ICs and the impact they have on the value of property and Mr. Watkins replied that the use of ICs and their impact both depend on the anticipated reuse. Mr. Watkins stated the portion of Glenview NAS affected by an IC constituted less than 1% of the total land on the base. He also noted that ICs were nothing new in Glenview: the base had included a historically significant hangar which was transferred to the Village of Glenview with a deed restriction maintaining the eligibility of the property for the National Register of Historic Properties. Mr. Fields asked about what contaminants they dealt with at Glenview, and Mr. Watkins replied that they dealt mostly with petroleum products, and their residual effects. At Mr. Taylor's request, Mr. Klewin clarified the concept of non-time-critical removal action, which is an approach allowed under the National Contingency Plan (NCP) for evaluating remedial alternatives and implementing cleanup. This approach is used by EPA and has been very successful at a number of DoD sites. Mr. Fields added that the process does incorporate adequate investigation and public participation, and that EPA does have guidance on when to select and how to conduct non-time-critical removal actions.

Mr. Reimer asked whether there was an asbestos problem at Glenview NAS, and Mr. Watkins replied that there was no asbestos problem with the exception of one small site that is slated for demolition. Mr. Owen noted that the Village of Glenview was aware of the asbestos and prepared to handle it properly during demolition.

Mr. Owen discussed legislative changes that had facilitated the BRAC process at Glenview, including legislation that governed interactions with agencies for the homeless, early transfer, and tax-increment financing legislation. At the request of Mr. David Mears, the DERTF member representing the Department of Justice, Mr. Owen described the process the Village is undergoing in learning about ICs and their impact on land values and negotiations with developers.

Mr. Phillippe asked whether the BCT had addressed lead-based paint in soil. Mr. Watkins responded that the environmental staff had done analysis and had found elevated lead levels around a water tower and in the soil surrounding the pre-1960 target houses. Mr. Watkins stated that these sites did have lead levels that exceeded Department of Housing and Urban Development (HUD) guidelines, but the areas were small in size and have since been cleaned to a satisfactory level.

Following the formal presentations, the DERTF members visited Glenview NAS and attended the July 1998 meeting of the Glenview NAS Restoration Advisory Board (RAB).

**Wednesday, July 22, 1998**

Mr. Choudhury began by reviewing the previous day's activities.

**Presentation on Fast-Track Cleanup and the FOST Review Process**

Ms. Phyllis Breland, DoD Base Closure and Transition Office, gave an overview of the BRAC Fast-Track Cleanup and FOST processes. She provided information on the numbers of bases undergoing closure and realignment and identified the key parties involved in the BRAC cleanup process. She concluded that the Fast-Track Cleanup process is working and making property available for transfer by deed, and that the overlap of environmental and real estate processes presents an opportunity to better achieve Fast-Track Cleanup goals.

Mr. Gray asked about the relative risk process, whether cleanup decisions are based on cost, and who was involved in making the decisions. Ms. Breland responded that decisions are made on a case-by-case basis and involve the BCT, local community, and the LRA, and follow remedy selection criteria stated in the NCP. Mr. Gray asked whether there was a higher level of appeal if any conflict arose over cleanup decisions. Ms. Breland answered that there is always a higher chain of command, and Mr. Taylor clarified that the cleanup of any site with imminent substantial risk would take precedence. Mr. Choudhury summed up the discussion by explaining who the key players are in the cleanup process, and what role they have in developing a cleanup plan.

Mr. Goodhope asked about inter-Service transfers. Mr. Choudhury stated that that was something that was handled by the real estate offices, not the cleanup offices. Mr. Goodhope also asked how the Services treat contamination if it is found after transfer. Mr. Taylor replied that, in the case of inter-Service transfers, the transferees were required to deal with it. Mr. Reimer called for continued work to achieve the quick transfer of housing stock to prevent its deterioration.

**Panel Presentation on Defining the Cleanup Process Beyond Remedy in Place**

Mr. Mario Ierardi, Air Force Base Conversion Agency (AFBCA), and Ms. Mary Sanderson, EPA Region I, began the panel presentation by giving a joint briefing entitled the Road to Site Closeout. They described the activities and makeup of the Site Closeout Working Group and compared the terminology used by DoD and EPA under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). Mr. Ierardi explained that 10% to 20% of sites account for cleanup requirements in the future. He said that these sites are more complex and about 80% of the total costs are attributable to them. Mr. Ierardi and Ms. Sanderson concluded by saying that significant cleanup requirements remain beyond last remedy in place/construction complete to achieve site closeout and that adequate funding is needed for timely completion of those requirements.

Mr. Steve Nussbaum, ASTSWMO Base Closure Task Force and Illinois EPA, gave a presentation on the state perspective on site closeout. He said he believed that the funding process does not look far enough into the future (i.e., 20 to 30 years) to enable decisions to be made about residual contamination left after completion of cleanup actions. He suggested evaluating the unrestricted use scenario to provide a baseline of information that can be used to determine the suitability of ICs. He also suggested that at some sites it might be more cost-effective to clean up to unrestricted levels now to avoid future concerns. He suggested that DoD fund the enforcement and joint inspection of ICs through Defense and State Memoranda of Agreement (DSMOAs). Mr. Nussbaum called for adequate funding to be provided for five-year reviews under CERCLA. He also suggested identifying the state natural resource trustees and involving them in decisions early in the process.

Ms. Shirley Curry, AFBCA, presented the Site Closeout Working Group's approach to community involvement in site closeout. She suggested methods to maintain effective community involvement, such as workshops, conferences, and use of the Internet and media. Ms. Curry emphasized that community involvement is critical to successful environmental cleanup.

Mr. Taylor asked what is done with respect to remedies and ICs in the long-term at non-DoD sites. Ms. Sanderson replied that the potentially responsible party (PRP) has a continuing obligation to the site and that EPA has a continuing inspection and oversight role. Mr. Fields commented that two-thirds of private sites require long-term operation or maintenance, and asked where funding would come from to support such a requirement at DoD sites. Mr. Nussbaum replied that some states receive funding for the support of DoD sites from DSMOA and from Superfund memoranda of agreement, but it is not clear how long funding will be available to states for long-term requirements.

Mr. Goodhope asked whether long-term monitoring costs would be borne by the Services and whether the Services would fund any use of ICs. Mr. Nussbaum replied that it might be possible for the states to receive funding for ICs through the DSMOA process, although that was not being done at present.

Mr. Mears asked how five-year reviews interact with ICs and how long five-year reviews continue. Ms. Sanderson replied that the reviews continue for as long as there is contamination above permissible levels at the site, and that they present a good opportunity to enforce ICs. She stated that draft guidance on checklists for these reviews was in the pipeline, and that there would be a section on ICs. Mr. Nussbaum concurred that the checklists would be a good method of ensuring the proper maintenance of ICs.

Mr. Gray asked what has been done to gather stakeholder input. Ms. Curry explained that the working group would be seeking public comment after producing a fact sheet and expressing its findings in lay terms. Mr. Gray said that he felt further study was required concerning the cost comparison of cleanup to unrestricted levels and cleanup in which contamination is left in place.

Mr. Fields summed up the discussion from his perspective, by saying that the definition of site closeout needs work, as does the explanation of how five-year reviews apply to non-NPL sites.

Study is also required on the outyear costs and actions beyond last remedy in place/construction complete and before site closeout.

### **Panel Presentation on Overview of Institutional Controls**

Dr. Nancy Frank, Chair of the Department of Urban Planning at the University of Wisconsin – Milwaukee, gave a presentation on the constraints to land development that are commonly acknowledged and dealt with by planners and developers. She highlighted the types of regulations that govern development and concluded that these regulations seek to protect public health, safety, and welfare.

Mr. John Pendergrass of the Environmental Law Institute presented an overview of the types of ICs that exist and the conditions in which they are applied. He raised general issues concerning the implementation and adoption of ICs and offered examples of their use. He stated that methods to measure the costs of ICs were needed. Mr. Pendergrass also cited examples of recently implemented ICs where problems have already arisen.

Mr. Taylor stated that the DoD position is that if someone ignores an IC, covenants and indemnification pursuant to CERCLA will be voided, and that DoD will regard such violations very seriously. However, the liability would be DoD's if the property owner fulfills all the requirements and the ICs still fail.

Ms. Aimee Houghton of the Center for Public Environmental Oversight gave a presentation in which she suggested that ICs are not meant to be permanent. She said that ICs provide control and discipline when needed, but ICs are not meant to be kept in place for a long period of time. She saw no clear answers to the enforceability of ICs, and stated that she believed ICs are not a reliable or efficient tool. She believed that ICs promote false savings with unknown future costs. She raised the idea of forming a national registry of ICs.

Mr. Barry Steinberg of the National Association of Installation Developers gave a presentation covering ICs from the developer viewpoint. Believing that the current process does not look far enough into the future, he stressed the need for good data and life-cycle costs and for good site characterization studies to ensure that the remedy selected is the correct one. He said that public input on potential ICs is needed before remedy decisions are made.

Mr. Mears asked for clarification on five-year reviews and their suitability for enforcing ICs. Mr. Pendergrass mentioned that such reviews have not always been carried out on schedule and that the ROD does not contain sufficient information on ICs to be used as a base for the reviews. He also stated that if there is no transfer of property, there is no documentation in which to record a deed restriction.

Following this panel, Ms. Goodman arrived and assumed the Chair for the remainder of the meeting.

### **Panel Presentation on Institutional Controls and Environmental Cleanup**

Mr. Larry Eastep of Illinois EPA's Bureau of Land provided a briefing on the use of ICs in environmental cleanup in Illinois. He stated that ICs are allowed and encouraged under Illinois law and explained the use of ICs under the Tiered Approach to Corrective Action Objectives (TACO) regulations. He described the different types of ICs used in Illinois and the sanctions for their violation. He concluded that the use of ICs under the TACO regulation at active Federal facilities is unclear, as is IC enforceability, because TACO relies on deed provisions which do not exist at most Federal facilities.

Mr. Joe Schilling and Mr. James Connell of the International City/County Management Association gave a joint presentation on the implementation and enforcement of ICs from a local government perspective. Mr. Schilling stated that there is a serious need in local government to address issues surrounding ICs. He stressed the need for local governments to consider the enforcement of ICs early on and questioned where the funding would come from for local government involvement. He suggested improving mechanisms for recording and enforcing ICs.

Ms. Eve Bach of ARC Ecology described the relationship between ICs and risk, and stated that ICs based on property interests require the owners of the restrictions to exercise their interests in order for the ICs to be successful. She suggested that DoD retain a property interest. She also called for a consistent methodology to ensure that ICs can be enforced and to maintain standards.

Mr. Taylor gave a presentation on behalf of DoD on the use of ICs. He stated that it is not always technically or economically feasible to remove all contamination, but that it is necessary to ensure that actions taken are protective of human health and the environment. He noted that DoD has a mandate to ensure this protection and needs to determine how ICs can meet this responsibility. He said that states recognize that ICs are here to stay and are taking steps to manage and enforce them. He concluded that DoD should be treated in the same manner as private parties, and that, when property is transferred out of DoD hands, enforcement and monitoring would appropriately be the responsibility of EPA, the states, and local government. Mr. Taylor speculated that money might be set aside for IC enforcement when the remedy is selected, so that enforcement would then become part of the cleanup, noting that this was his personal thought and not DoD policy. Mr. Taylor said that the removal of ICs requires the approval of the regulator as well as DoD.

Mr. Goodhope, in response to Mr. Taylor's presentation, suggested the idea of a trust fund to put money aside for future enforcement and monitoring costs. Mr. Edwards stated that there are possible legal complications with establishing trust funds. Ms. Goodman stated that the idea of a trust fund is not legally feasible, and also that it is counter to long-established DoD funding and management processes.

### **Panel Presentation on BRAC Property Disposal Records Management**

Mr. John Kelly of GSA gave a presentation on the impact of ICs on real estate management. He explained GSA's role in the property disposal process and concluded that ICs do not impede real estate reuse, but that it is essential to involve state and local governments early in the process.



Ms. Janice Howell of the Army Corps of Engineers presented the Army's perspective on ICs and real estate. She discussed past uses of ICs and defined some of the legal terms involved, such as covenants, easements, and reverters. She stressed the importance of records management in the administration of ICs and explained some methods for modifying or removing ICs. Ms. Howell emphasized the importance of maintaining records in strict accordance with state and local governments' procedures and formats so that those governments can assume an active role in the administration and maintenance of ICs.

Ms. Deborah Moomey of the Naval Facilities Engineering Command gave the Navy's perspective on ICs and real estate. She identified the parties that should be involved in IC decisions, including the LRA, environmental specialists, and legal counsel. She suggested that records should be kept in electronic format, and concluded by identifying the parties who should be involved with the modification of ICs.

Mr. Robert Menke of the Air Force Real Estate Agency offered the Air Force's perspective on ICs and real estate. He outlined the disposal process and the agencies involved and also addressed records management issues. He suggested the development of a residual contamination profile matrix showing remedial actions and ICs on disposed properties. He stressed the need for early state and local involvement as well as cooperation among all stakeholders in the implementation of ICs.

Mr. Phillippe asked whether GSA maintains a database of ICs by state. Mr. Kelly responded that GSA is updating its databases to include more environmental information and that this will allow GSA to track ICs. The other panel members also stated that their organizations also do not have this capability. Mr. Gray asked whether this would be a publicly available database when it is developed. Mr. Menke said that it could be.

Mr. Gray asked whether it was the case that in some states covenants do not run with the land. Ms. Howell replied that this indeed is the case, and that care must be taken when implementing covenants.

Mr. Fields called for coordination between states and local governments and asked about the success of IC enforcement. Mr. Kelly replied that it is often local authorities who are called upon to maintain ICs, especially if the property is transferred to them under a public benefit conveyance.

Ms. Patricia Rivers, the DERTF alternate representing the Army Corps of Engineers, asked whether ICs have to be tested for enforceability before inclusion in a remedy and whether a form of self-reporting could be used instead of using state or Federal resources to check on ICs. Ms. Rivers also asked if the states request self-certification in their voluntary cleanup programs. Mr. Edwards said that he was not aware of any such uses and Mr. Phillippe said that he was not either, although, he noted, similar self-certification approaches are under consideration in California for active bases.

In response to a question by Mr. Reimer, Mr. Kelly stated that GSA acts as a broker and uses ICs only when they are consistent with the highest and best use of the property. He stressed that the use of ICs is restricted to these situations.

Mr. Edwards suggested that conservation easements are used in many states and that ICs based on future land use could include a “hazardous substance easement.” He asked if the panel had any experience with hazardous substance easements. The panel responded that they had not.

In closing, Ms. Goodman highlighted the importance of getting real estate professionals involved early in the process.

### **Public Comment Period - July 22, 1998**

Ms. Goodman opened the public comment period by welcoming the attendees from the Glenview area, from communities near other bases in the region, and from restoration advisory boards (RABs) around the country. Mr. Choudhury reviewed the procedures for the public comment period, noting that each speaker would be allotted five minutes. A summary of the remarks addressed to the DERTF is given below. Written statements provided by some of the individuals were received for inclusion in the public record.

Mr. Robert Blomquist, a Glenview resident and science teacher, said that he was happy to see that there was official government oversight of BRAC. Mr. Blomquist’s chief concern was the preservation and restoration of the prairie located on the Glenview NAS. He believed the prairie remnant is not adequately protected by the planned buffer zone.

Ms. Jane Ranz, also a local community member, expressed concern about the use of pesticides on the golf course. She said she had spoken with the RAB but nothing had been done. Ms. Ranz felt that there should be additional testing of the golf course for pesticides. Additionally, Ms. Ranz felt that DoD should use ICs to protect natural resources and the prairie land. She also stated that there should be reasonable testing guidelines for natural resources.

Mr. Saul Bloom, director of ARC Ecology and the secretary of the National Caucus of Restoration Advisory Board Community Members, presented the collective comments of the Caucus. Mr. Bloom expressed the concern that there are inaccuracies in the RAB supplement to the Defense Environmental Restoration Program Annual Report to Congress and said he would like to see the report in the future before it goes to Congress. Mr. Bloom thanked DoD for the interim guidance on RAB adjournment and for the RAB web page, but stated that the RAB directory was not up-to-date, and that he has not seen the RAB resource brochure.

Ms. Christine Gover, a RAB member for Keyport Naval Undersea Warfare Center, highlighted her positive experiences with the RAB. Ms. Gover urged DoD to set up a networking system for the RABs so that success stories can be shared. Ms. Gover stated that she had several suggestions regarding ways to improve communications with and among RABs. Mr. Fields requested that Ms. Gover provide a written document outlining her suggestions for RABs.

Ms. Chris Shirley, a RAB member for Hunters Point Naval Shipyard, suggested that the DERTF submit the minutes of the DERTF meeting and the draft DERTF Annual Report to Congress to RAB members for comment. Ms. Shirley said that she found inaccurate information in Appendix C of the DERTF Annual Report to Congress. Ms. Shirley then discussed the policy of cleaning up to reuse and stated her opinion that it would make more sense to clean up completely instead of retaining continuing liability. Finally, Ms. Shirley suggested that the DERTF present a panel on ecological risk and natural resource damages assessment.

Ms. Eve Bach, a staff member at ARC Ecology and President of the Public Trust Group in San Francisco, suggested that public trust issues be added to any future natural resource damages panel presentation. She wanted to ensure that the Public Trust Doctrine, which refers to the rights of the public to use California's waterways to engage in activities such as recreation, commerce, and fishing, was observed in the BRAC process and in the protection of natural and cultural resources.

Mr. Elary Gromoff, President of the Adak Reuse Corporation, Co-Chair of the Adak RAB and representative of the Aleut nation, expressed concern that the BRAC process does not allow flexibility in Federal-to-Federal transfers. He stated that subsistence is a way of life for the Aleut people and that ICs disrupt this way of life. Mr. Gromoff further pointed out that the Department of the Interior is developing a policy specific to Native Alaskans, and that such policies should consider Native American corporations and the handling of land transfers.

Mr. Gromoff read written comments provided by Mr. William Boulware, a representative of the Ho-Chunk Nation. Mr. Boulware's remarks expressed displeasure with the RAB at Badger Army Ammunition Plant, stating that the RAB's bylaws did not allow members of the tribe to participate. He stated that real attention must be given to the protection, conservation, and preservation of cultural resources and sites sacred to tribes during cleanup and remedial actions.

Mr. Peter Haas and Mr. Jeff Lehmann yielded their time to Mr. Armando Quintanilla.

Mr. Armando Quintanilla, a Kelly Air Force Base RAB member, expressed concerns about groundwater contamination at that installation. Mr. Quintanilla also stated his impression that too much money is used for management rather than cleanup. He emphasized the need for environmental documents to be made available to the public and translated so that the primarily Hispanic community could read them.

Mr. Theodore Henry, a toxicologist with the University of Maryland, commented on the DoD Range Rule. He noted problems with prioritization, risk assessment, and accountability, and presented the DERTF with some recommendations for improving the rule, including supporting the recommendations of the Defense Science Board Task Force, tracking the progress of the Range Rule, and involving the public in developing the policy.

Mr. Scott Allen, Community Co-Chair for Fort Ord RAB, expressed concern over national policy on unexploded ordnance, recommended the use of better detection technologies, and urged that

policies comply with CERCLA. Mr. Allen stated that remedial action is necessary at Fort Ord and expressed concern that the Army has not responded to community issues.

Mr. Michael Miller, the community co-chair of the Air Force Plant 42 RAB, stated that he had some negative experiences working through RABs. He felt that the RABs were cut off from critical information, which made fulfilling their responsibilities more difficult. He felt that DoD and RABs should work together, rather than working against each other. Mr. Miller felt that if DoD and the RABs do not find a way to work together, the RABs should be dissolved.

Mr. R. Lyle Talbot, an Air Force Plant 42 RAB member and a former Edwards Air Force Base RAB member, stated that at Edwards AFB DoD is trying to build new barracks and he is concerned about the proximity of the barracks to a chemical weapons trench. He characterized the decision as one to build the barracks and worry about the chemical weapons later.

Ms. Sandra Jaquith, a Rocky Mountain Arsenal RAB member, expressed the need for the DERTF and DoD to address public participation and mutual respect between DoD and communities before they can address any other issues.

#### **Thursday, July 23, 1998**

Mr. Choudhury reviewed the events of the previous day and reminded attendees that the meeting would adjourn at noon. Ms. Goodman recommended changing the agenda to first discuss the plans for the next DERTF meeting, to be held in February in San Francisco. She highlighted the proposed plan for the meeting, noting the variety of topics suggested by the members as well as the members' preference for two public comment periods.

Mr. Reimer commented that because the San Francisco area has BRAC bases from all four rounds, it would be useful to hear more from the respective RABs and LRAs. He would like to hear comments from the bases and spend time listening to, and learning from, local bases. His preferred format would be to have a series of issues and then to hear about installations' experiences on those topics. Mr. Phillippe supported this opinion.

Mr. Gray and Mr. Goodhope called for an extended public comment period. Ms. Rivers advocated a presentation of EPA's views on the BRAC bases in the Bay Area, in general, rather than a base-specific approach. She urged that the discussion move up a level from individual bases, reminding the members that that had been their stated intention in deciding to go to the San Francisco area.

Mr. Fields supported calls for an extended public comment period because of the number of base closures in the area. Mr. Phillippe suggested that a tour of bases could be arranged outside of the DERTF time schedule for interested members. Ms. Rivers said that tours are too labor-intensive and take too much time for base personnel to arrange and called for more displays instead.

Mr. Polly suggested hearing a regional perspective, with public comment, and panels including RABs and LRAs. He recommended tours and said that he felt it was helpful to actually see the bases being discussed.

Mr. Reimer suggested moving the meeting location to the Presidio if there were problems with access and parking at the current planned hotel.

In summing up the discussion of the meeting format, Mr. Choudhury confirmed that the plan for the first day would include business items in the morning, followed by a series of overview presentations and public comment. He suggested that the second day include two panels, one led by EPA on Native American issues, the other based on public involvement in BRAC cleanup. Mr. Fields and Mr. Polly suggested that the Department of Interior's Bureau of Indian Affairs be involved in the proposed Native American panel.

The DERTF members decided that ICs needed to remain a focus for DERTF attention. After various recommendations for IC-related presentations, Mr. Polly called for the development of DoD operational guidelines to deal with ICs on BRAC property, and recommended that the second afternoon include a discussion of potential DoD guidelines. Ms. Rivers volunteered to organize a panel to illustrate the Services' position on ICs. Mr. Gray suggested that EPA expand its open action item on ICs in RODs for the San Francisco meeting, to include the year, type, lead agency, and how the controls were used. Mr. Fields agreed to present the requested information as part of a presentation on life cycle costs for ICs.

Mr. Polly mentioned that Mr. Goodhope had promised a list of state laws with ICs at the last meeting. Mr. Edwards said that he was unwilling to commit to that amount of work because the project was too big. Mr. Polly mentioned that similar studies had been done on Brownfields in which NAAG had played a role. Mr. Phillippe highlighted the previously distributed ASTSWMO study on ICs, which mentions 15 states with IC laws applicable to Federal facilities. He suggested that this would be a good starting point for a potential study. Mr. Fields suggested that the study focus on these 15 states only and cover implementation and enforceability of the laws. Mr. Edwards said that several states had reservations about their responses to the ASTSWMO study on ICs, and that that study might have overstated the enforceability of ICs. Mr. Phillippe pointed out that this study may be the most comprehensive one available, and is therefore valuable.

After determining that three IC-related presentations, one each from DoD, EPA, and NAAG, would be developed for the next meeting, Ms. Goodman turned discussion to the Annual Report to Congress. Mr. Choudhury mentioned that at the last meeting, guidance was given to staff to develop a succinct report, the draft of which was provided in the notebooks. Mr. Gray stated that he had a few suggestions regarding the text of the Annual Report, which Ms. Goodman suggested that Mr. Gray provide to Mr. Choudhury at a later date.

Mr. Reimer called for an information paper to be prepared by the DoD Office of Economic Adjustment on its studies of the transfer of housing and an update of its policies. Mr. Gray called for a presentation for the February meeting on funding for the monitoring and enforcement of ICs.

Mr. Fields and Mr. Choudhury agreed to provide an update of the status of Early Transfer Authority guidance and its implementation on behalf of their respective agencies.

The DERTF members then discussed the draft findings and recommendations. The findings and recommendations that were unanimously approved by the members are attached at Appendix A.

Ms. Goodman thanked the all the Task Force members, and community members for their participation. She thanked the support staff and called for an adjournment, Mr. Polly seconded the motion and the meeting was adjourned.

The next meeting of the DERTF is scheduled for February 1999, in San Francisco, California.

## **Appendix A**

### **Findings**

- Military installations have been custodians for natural and cultural resources, and special attention is needed to ensure these resources are identified and protected during the transfer process.
- The DERTF is pleased to report that the BRAC program continues to make progress towards meeting its Defense Planning Guidance cleanup goals. The next several years will be critical to the success of the program because of the many sites that will have remedies in place or response complete.
- Recognizing that ICs are used as a component of remedies, DoD needs to identify and understand the total life-cycle costs associated with ICs.
- The early participation of real estate professionals, communities, and local and state agencies in the development and implementation of ICs is necessary to ensure the long-term enforceability of ICs.

### **Recommendations**

- The military Services should emphasize the need to complete natural and cultural resource surveys at BRAC installations, and should encourage installations to seek the early involvement of the Advisory Council on Historic Preservation, state historic preservation offices, and staff with special expertise to evaluate and manage cultural resources at BRAC installations.
- DoD should continue to secure funding that will meet all obligations necessary to reach site closeout, especially long-term monitoring efforts.
- The DERTF recommends that where future remedial action decisions include an alternative that would leave contaminants on the site for cost-effectiveness reasons, the land or other use restrictions, as well as any monitoring and physical ICs necessary to ensure the protection of the environment and human health, must be identified and their estimated full life-cycle costs compared with the estimated costs for cleanup to the level necessary for unrestricted use.
- DoD should develop a policy to ensure the early involvement of real estate professionals, communities, and local and state agencies in the development of ICs.
- The DERTF encourages states to enact laws that will allow them to manage and enforce ICs.
- DoD should focus on clearly defining the scope, schedule, and cost of site closeout. Therefore, the DERTF recommends that Congress should extend the BRAC account or provide additional funds in other environmental accounts.